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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/496,249	02/02/2000	William A. Horwarth	CM-0002	5923

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EXAMINER

REIS, TRAVIS M

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 01/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/496,249

Applicant(s)

HORWARTH ET AL.

Examiner

Travis M Reis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 17-20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-16 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-8 is/are objected to.
- 8) ☒ Claim(s) 17-20 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) g.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-16, drawn to a machine tool monitoring fixture, classified in class 33, subclass 502.
  - II. Claims 17-20, drawn to tool positioning, classified in class 702, subclass 95.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it is possible to monitor the condition of a trunnion axis of a CNC machine using a spindle mounted probe without the specifics of 1<sup>st</sup>, 2<sup>nd</sup>, & 3<sup>rd</sup> blocks mounted on the outer surface of a wall at angular positions along an arc. The subcombination has separate utility such as the calibration of a plurality of devices.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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2. Claims 17-20 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.

***Drawings***

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: 130. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

4. The disclosure is objected to because of the following informalities: On page 9, line 31, "2" should be ---1---.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Haggar (U.S. Patent 3089248).

Haggar discloses a machine tool comprising a body (10) 1<sup>st</sup>, 2<sup>nd</sup>, & 3<sup>rd</sup> blocks (22, 24, 26, 28) mounted on said body (10) at 1<sup>st</sup>, 2<sup>nd</sup>, & 3<sup>rd</sup> angular positions respectively about an arc circumscribed by a radius about an axis of rotation, and said blocks having co-planer flat surfaces each with normals parallel to said axis of rotation, said body comprising parallel first (34) and second walls (X, see Attachment) and a third wall (Y, see Attachment) disposed normal too, and connected to said first and second walls, wherein said blocks are mounted on said first wall (Figure 1).

***Allowable Subject Matter***

7. Claims 4-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose or clearly suggest a machine tool wherein said first and second walls include recesses in each wall, in combination with the remaining limitations in the claims.

9. Claims 9-16 are allowed.

10. The following is an examiner's statement of reasons for allowance:

With reference to claims 9-16, the prior art of record does not disclose or clearly suggest a monitoring system for monitoring alignment of a spindle trunnion axis comprising a probe to measure locations of features on a machine tool monitoring feature control means for moving said spindle mounted probe and 1<sup>st</sup>, 2<sup>nd</sup>, & 3<sup>rd</sup>, blocks mounted on said body at 1<sup>st</sup>, 2<sup>nd</sup>, & 3<sup>rd</sup>, angular positions respectively along an arc

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circumscribed by a radius about an axis of rotation, in combination with the remaining limitations in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Malhiot discloses a testing apparatus (U.S. Patent 2367513). Adamczyk discloses a measuring apparatus (U.S. Patent 3599339). Davis discloses devices for securing workpieces for matching operations (U.S. Patent 3600813). Nordmann et al. discloses a measuring machine (U.S. Patent 3750295). Maxey discloses a three axis precision measuring device (U.S. Patent 3940854). McMurtry discloses a method and apparatus for use in co-ordinate measuring machines (U.S. Patent 4168576). Coleman et al. discloses a coordinate locating device (U.S. Patent 4261107). Herzog discloses a method of calibrating probe pins on multicoordinate measurement machines (U.S. Patent 4523450). Allard et al. discloses an orthopaedic gauge (U.S. Patent 5309648). Wiedmann et al. discloses a coordinate measuring apparatus having a spatially adjustable probe pin (U.S. Patent 5848477). Yoda et al. discloses a workform-measuring method and device and CMM (U.S. Patent Application Publication 2002/0000047A1).

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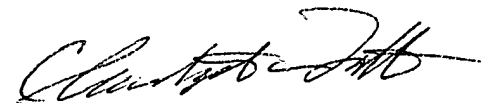
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis M Reis whose telephone number is (703) 305-4771. The examiner can normally be reached on 8:00--5:00 Monday--Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Travis M Reis  
Examiner  
Art Unit 2859

tmr  
January 17, 2003



Diego Gutierrez  
Supervisory Patent Examiner  
Technology Center 2800

**CHRISTOPHER W. FULTON**  
**PRIMARY EXAMINER**